

EXH. 35
DECL. OF MARCELLA DAVID
(COLUMBIA COLLEGE CHICAGO)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF MASSACHUSETTS,
et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, et al.,

Defendants.

Civil Action No.

DECLARATION OF MARCELLA DAVID, COLUMBIA COLLEGE CHICAGO

Declaration of Columbia College Chicago

I, Marcella David, pursuant to 28 U.S.C. § 1746, hereby declare and affirm that I am Senior Vice President and Provost at Columbia College Chicago, located in Chicago, Illinois. My educational background includes a Bachelor of Science in Engineering and a Juris Doctorate. I have been employed in academia as a professor and academic administrator since 1995 and have served as Provost of Columbia College Chicago since June 2019.

I submit this Declaration in support of The State of Illinois litigation challenging the policies announced on July 6, 2020 by “Broadcast Message” and to be published as a Temporary Final Rule to amend requirements of the Student and Exchange Visitor Program. I have compiled the information set forth below through personal knowledge, including my direct supervision of the revisions to our academic programming in light of the COVID-19 pandemic, and from information gathered by Columbia College Chicago personnel with responsibilities related to the matters described in this Declaration. I have also familiarized myself with the Rule in order to understand its immediate impact on Columbia College Chicago.

1. Columbia College Chicago is an independent institution of 7,000 total undergraduate and graduate students offering a distinctive curriculum that blends creative and media arts, liberal arts, and business. The College consists of the School of Fine and Performing Arts, School of Media Arts, School of Liberal Arts and Science, and the Graduate School.
2. Columbia College Chicago currently has 229 enrolled students who have F-1 visas and no students who have M-1 visas. These students come from 46 countries and contribute approximately \$7,079,022 in tuition, housing fees, and other forms of revenue to Columbia

College Chicago. Of these students with F-1 and M-1 visas, 127 are currently in the United States.

3. Columbia College Chicago has 133 newly admitted students for enrollment in fall 2020 who will require F-1 or M-1 status. Of these students, 22 are currently in the United States and 111 are currently living outside the United States and require a visa to enter the country for study. These students are expected to contribute approximately \$5,179,694 in tuition, housing, fees, etc. to Columbia College Chicago.
4. We plan to offer a wide range of face-to-face and hybrid courses this fall (see point 9 below). Nonetheless, there are a host of reasons why continuing and new international students may disenroll for fall 2020:
 - a) students may withdraw if they cannot study from within the United States;
 - b) students may withdraw if they lose their F-1 visa and their ability to obtain CPT/OPT work visas;
 - c) students may transfer to another US university that allows in-person or hybrid instruction;
 - d) students may not be able to safely return to their home country to study remotely; and/or
 - e) colleges/universities are forbidden to let the students continue their studies if their learning is remote but they cannot leave the United States – a situation we experienced in the spring 2020 semester, when many international students were unable to quickly go back to their home countries after Columbia College Chicago switched to all-remote classes due to the pandemic.

The new policy could potentially impact our entire expected fall 2020 international student population of 362 students. The total tuition, fees, and housing revenue from this international student population is approximately \$12.26 million. Moreover, international

students often pay full or near full tuition, the loss of which would not only impact revenues but also reduce financial aid resources for other students.

If we are forced by circumstances to transition to fully remote instruction for or in the fall or spring semester, all of our international students will be deportable on short notice, which would be heavy burden and might not be doable for them, and would negatively impact their studies.

Administrative Burdens and Planning Disruptions

5. Columbia College Chicago's response to the unfolding pandemic was swift and effective. We announced a two-week suspension of scheduled classes to assess the curriculum, understand and address technology needs, and transition the semester's remaining six weeks of instruction to remote formats.
6. Soon after the decision to transition to remote instruction, we determined that it was necessary to close our residence halls. As our students relocated from the dormitories, it was apparent that our students who were most adversely affected by the academic and housing transitions were our students with complicated (and for, some, abusive) home situations, students from disadvantaged backgrounds, and our international students. We provided flexibility (in the form of an extended move-out deadline) for international students whose travel requirements or home-country situation made it difficult to leave the United States quickly or easily.
7. Throughout the transition we closely consulted with the state and city authorities, our accrediting body, and federal agencies, including the Departments of Education and Homeland Security. We followed all regulations and filed interim reports regarding operational changes; this included completion of SEVP forms regarding operational changes due to COVID as required by the March 2020 guidance.
8. Columbia College plans to return to in-person instruction in the fall. We are offering a mix of classes across the curriculum in three different formats: online, fully face-to-face, and a hybrid format mixing on-campus and remote instruction. About half of our classes will include on-campus instruction, either as fully face-to-face or hybrid. We will welcome

students to our campus in late August; classes will begin September 8 and conclude December 19, 2020.

9. Our plans for operating safely include face covering requirements, social distancing, rigorous cleaning, health monitoring, contact tracing, reducing the number of people on campus, and managing the flow of people to minimize risk. Many staff and faculty will continue to work remotely, or on a schedule that limits their time on campus. Pursuant to state and city guidelines for reopening, there will be no classes requiring more than 50 persons to be in a single room. Because we are implementing social distancing in our classrooms, restricting normal classroom capacities, most classes will meet in-person in groups of less than 20. We recently reopened our campus to approximately 100 summer students using these and other safety protocols.
10. Courses offered in the fall that we have designated as “online” courses include classes that are offered asynchronously, where students engage with course material at their own pace outside of formal classroom sessions. However, the majority of our online courses are in effect remote learning experiences, where the classroom experience is simulated on a remote platform, and students are expected to attend synchronous class sessions and participate in discussions, engage in group work, or receive direct coaching from faculty.
11. The designation “hybrid” includes many variants, all of them intended to manage restricted classroom occupancies, safely allow access to specialized equipment, and safely manage collaborative learning experiences. Examples of specialized equipment are our recording studios, television sets, radio station, and science labs. Examples of collaborative learning experiences include our theater, dance, cinema, and film production programs.

12. For online courses, learning outcomes will sometimes be met by using simulations or shifting creative practices to digital platforms. For classes with face-to-face or on-campus elements, the experience will vary according to the subject, any equipment needs, and the logistics of our safety protocols. A student may come to campus weekly for a discussion group, every other week for a lab exercise, and at select times during the semester to access needed equipment for a course project.
13. Our facilities management and technology staff, in collaboration with our incident management and reopening task forces, are continuing to prepare our campus for a broader reopening, including updating our infrastructure, making significant investments in technology, and honing our training and communication protocols.
14. Similar preparations are underway in our academic divisions. This effort involves every aspect of academic affairs, including not only our faculty but our staff in advising, registrar services, international student support, financial aid, residence life, student affairs, and academic technology.
15. Our dedicated team is running beyond capacity, committed to launching our fall semester with all due care for our campus and the greater Chicago community. Tasking additional resources to help our international students redesign their fall schedules, adapting courses as necessary to support compliance with the newly announced policies, and re-issuing I-20s for each international student is detracting from our reopening efforts.
16. In addition, the uncertain status of our international students further complicates our business planning. Uncertainty has been added to our student housing plans (for which we sub-contract), the number and size of the courses we offer, staffing needs for our courses, and our budget planning models.

Harmful Impact on Educational Mission

17. Columbia College Chicago's creative practice depends upon the rich diversity of our student population. The education of our domestic students and international students will be negatively impacted by the enrollment decline that we anticipate will be caused by the newly announced policies.
18. Although courses may be offered online, the experience for our international students is enhanced if they live in Chicago. Our international students reside in many different time zones, making it extremely difficult for most to be at home and engage in the synchronous learning experiences that represent the majority of our online offerings this fall. Students may not have reliable access to technology, the internet, equipment, or the materials necessarily to continue their creative studies. In addition, it will adversely impact our international students' ability to interact and collaborate with students located in Chicago.

Impact on Health of Students, University Community, and Public Health

19. Our students who choose a schedule composed only of online classes may do so because of underlying health conditions which would put them at risk if they were to opt for in-person instruction. This is true whether they are citizens or residents, or international students visiting pursuant to an educational visa. Encouraging international students in this position to come to campus or else risk deportation incentivizes them to engage in risky behavior that may also put other students and the public at risk.
20. Columbia College Chicago is planning to offer in-person instruction pursuant to current federal, state, and city guidelines in a way that manages risks and promotes the health of faculty, students, and staff. Our ongoing planning should remain focused on health, safety, and academic quality. The newly announced policies perversely incentivize colleges and universities to instead make educational decisions about instructional formats in a way that prioritizes revenue enhancement in a time of financial exigency.
21. The newly announced policies also risk the health of international students who may not be able to safely travel home or have safe places to which they can return.
22. The newly announced policies may also contribute negatively to the health of the City of Chicago. Our planned hybrid model of instruction, together with a continuing work-from-home policy, reduces the density of our campus and relieves pressure on vital city services, including public transportation. The newly announced policies put the achieved balance of campus and community safety at risk.

Economic Harm to Students and the States

23. There are significant potential economic effects on our international students who have made arrangements to join the Columbia College Chicago student body, many investing significant funds and incurring opportunity and reliance costs. These costs include travel, housing and other expenses, as well as potentially losing F-1 status and the ability to obtain work visas (CPT, OPT) after the academic year.
24. There are also significant potential economic effects on the business sectors from students who lose their visas; these include the urgently needed boost to the local economy in the form of rents, goods, and services consumed by our international students.

I, Marcella David, am a resident of Illinois and above 18 years of age. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of July, 2020

A handwritten signature in black ink, appearing to read "Marcella David". The signature is fluid and cursive, with the first name "Marcella" written in a larger, more prominent script than the last name "David".

Marcella David * Provost, Columbia College Chicago